

which it was recommended or any other contagious diseases, and the use of one of the devices would not protect one's family against any disease and would not cut down on doctor bills.

"(5) The labeling of the 'Pur-Ar-Lite Air Purifier' devices involved in this action is false and misleading.

CONCLUSIONS OF LAW

"(1) This Court has jurisdiction of the subject matter in the above-entitled action.

"(2) The devices seized in this action are misbranded within the provisions of 21 U.S.C. 352(a) because the labeling of said devices is false and misleading.

"(3) The devices are condemned under the provisions of 21 U.S.C. 334."

On November 17, 1949, judgment of condemnation was entered and the court ordered that two of the devices be delivered to the Food and Drug Administration and that the remaining devices be released to the claimant under bond for relabeling under the supervision of the Federal Security Agency.

3019. Misbranding of Theraplate (device). U. S. v. 202 Devices, etc. (F. D. C. No. 27789. Sample No. 1675-K.)

LIBEL FILED: September 15, 1949, Eastern District of South Carolina.

ALLEGED SHIPMENT: The devices were shipped from New York, N. Y., on or about March 14 and April 1, 1949, by the Infra-Appliances Corp. (American Metal Industries, New York, N. Y., consignor), and quantities of printed matter were shipped from New York, N. Y., between March and May, 1949, by the Infra-Appliances Corp.

PRODUCT: 202 *Theraplate devices* at Columbia, S. C., together with a number of leaflets entitled "Theraplate Instructions," "Information Bulletin #1," and "Introducing the Theraplate," and a number of display cards entitled "It's Theraplate." The device consisted of an electrically heated resistance wire embedded in a glass plate mounted on a metal base.

NATURE OF CHARGE: Misbranding, Section 502 (a), the following statements in the labeling accompanying the device were false and misleading since the statements represented and suggested that the device was effective in the treatment of the conditions stated and implied, whereas it was not effective for such purposes: (In leaflet entitled "Theraplate Instructions") "Many who suffer from Rheumatism, Arthritis, Sinus and the common cold have found welcome relief from pain and discomfort in Theraplate's infrared rays * * * For Relief of Rheumatic and Arthritic Conditions * * * For Treatment of Sinus, Common Colds," (in display card entitled "It's Theraplate") "Helps relieve painful discomforts caused by Rheumatism, Arthritis, Sinusitis, common colds," (in leaflet entitled "Information Bulletin #1") "Theraplate can be successfully used in bringing about relief from such ailments as Arthritis, Rheumatism, Phlebitis, Sinus, Hay Fever, and from general aches and pains * * * Theraplate will write a spectacular history in the bringing of much needed relief to the sufferers from Arthritis, Rheumatism, Sinus, Phlebitis, Hay Fever, and other muscular aches and pains," and (in leaflet entitled "Introducing the Theraplate") "Sufferers from Arthritis, Sinusitis, Phlebitis, Hay Fever, Rheumatic and other pains have found relief by use of the Theraplate * * * Sprained ankles, Charley horses, strained ligaments, bumps and bruises are all benefited by the magic penetrating infrared rays of the Theraplate."

DISPOSITION: February 22, 1950. The Central Radiant Glass Heating Co., Columbia, S. C., claimant, having consented to the entry of a decree, judgment

of condemnation was entered and the court ordered that the devices be released under bond for relabeling, under the supervision of the Federal Security Agency.

DRUGS FOR VETERINARY USE

3020. Misbranding of Fowlton, D.R.D. Concentrate, Flushem, and Getsem Poultry Wormer. U. S. v. 6 Cases, etc. (F. D. C. No. 27557. Sample Nos. 64120-K to 64123-K, incl.)

LABEL FILED: July 12, 1949, District of Minnesota.

ALLEGED SHIPMENT: On or about March 16, 17, and 23, and May 5, 10, and 31, 1949, by Dr. Jespersen's Laboratories, from Spencer, Iowa.

PRODUCT: 6 cases, each containing 4 1-gallon bottles; 9 cases, each containing 6 ½-gallon bottles; and 2 cases, each containing 12 1-quart bottles, of *Fowlton*; 4 cases, each containing 6 ½-gallon bottles; 1 case containing 5 ½-gallon bottles; 1 case containing 20 1-quart bottles; and 1 case containing 22 1-pint bottles of *D.R.D. Concentrate*; 3 cases, each containing 12 1-pound jars; 1 case containing 6 3-pound jars; and 1 case containing 5 3-pound jars, of *Flushem*; and 1 case containing 12 1-pint bottles; 1 case containing 11 1-pint bottles; and 1 case containing 116 ½-pint bottles, of *Getsem Poultry Wormer* at Buffalo, Minn., together with a number of booklets entitled "Dr. Jespersen's Poultry Guide" and a number of invoices issued by Dr. Jespersen's Laboratories, which bore therapeutic representations with respect to the products.

LABEL, IN PART: "Fowlton * * * Ingredients: Ferric Chloride, Manganese Sulphate, Potassium Dichromate, Potassium Iodide and Water"; "D.R.D. Concentrate * * * Active Ingredients: Mercuric Chloride (16.4 grs. fl. oz.) Inert Ingredients: Sodium, Calcium and Zinc Phenolsulphonates, Manganese Sulphate, Certified Color and water 96.6%"; "Flushem * * * Active Ingredients: Magnesium Sulphate (Epsom Salts), Sodium Sulphate, Sodium Bicarbonate, 95%. Inert as a laxative—Sodium Thiosulphate and Gentian Violet 5%"; and "Getsem Poultry Wormer * * * Contents: Arecoline Hydrobromide, Iron Chloride Solution, Solution Nicotine Sulphate, Copper Sulphate (22.5 grains per oz.), and Manganese Sulphate. Active Ingredients: 27½% Water 72½%."

NATURE OF CHARGE: Misbranding, Section 502 (a), certain statements on the invoices and in the booklets were false and misleading since the articles would not be effective for the purposes claimed. The false and misleading claims in the labeling represented and suggested:

That the *Fowlton* had some specific value in the treatment of disease conditions of poultry and as a tonic;

That the *D.R.D. Concentrate* had some specific value in the treatment of coccidiosis, roup, pox, and colds when used as directed;

That the *Flushem* when used as directed would be effective in the prevention and treatment of mold poisoning and for the condition known as "Mycosis";

That the *Getsem Poultry Wormer* when used as directed had some specific value in the removal of all species of worms, and more specifically roundworms and pinworms; that it would be effective in the treatment of paralysis; and that it would be effective for better health, growth, and vitality, and for obtaining more eggs from layers.

DISPOSITION: December 5, 1949. Dr. Jespersen's Laboratories, claimant, having withdrawn its claim of ownership and disclaimed any intention of filing an